

September 6, 2006 BZA



REQUEST ANALYSIS
AND
RECOMMENDATION

07AN0100

Francis R. Turner

Bermuda Magisterial District
1803 Point of Rocks Road

- REQUESTS: I. A Variance to use a parcel of land which has no public road frontage for dwelling purposes.
- II. An 11.25 foot Variance to the fifteen (15) foot side yard setback requirement for an existing dwelling.

RECOMMENDATION

Variances I & II

Recommend approval of these requests for the following reasons:

- A. The Variances for this existing single-family dwelling (constructed in 1984) will not impair the character of this residential area nor will they reduce or impair the value of buildings or property in the immediate or surrounding area.
- B The strict application of the Zoning Ordinance would result in an unreasonable hardship to the property owner if the dwelling or part of the dwelling were required to be moved or removed.
- C. The encroachment of this single family dwelling into the side yard setback requirement will not unreasonably impair an adequate supply of air and light to the adjacent property.

GENERAL INFORMATION

Location:

Property is known as 1803 Point of Rocks Road. Tax ID 824-640-6467 (Sheet 35).

Existing Zoning:

A

Size:

1.5 acres

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - A; Vacant
South - A; Vacant
East - A; Residential
West - A; Vacant

Utilities:

Public water and private septic system

General Plan:

(Eastern Area (Consolidated) Plan)

Residential
(1.5 units per acre or less)

DISCUSSION

The applicant requests Variances to use a parcel of land, which has no public road frontage for dwelling purposes. The access to the existing dwelling will be over a private easement from Point A to Point B, as shown on the attached map. The applicant has also indicated the existing dwelling is located 3.75 feet from the side yard property line. The Zoning Ordinance requires a fifteen (15) foot side yard setback in an Agricultural (A) District. Therefore, the applicant requests an 11.25 foot Variance (see attached plat).

The applicant provides the following justification in support of these Variance requests:

The house exists and the cost of moving or demolishing it would be prohibitive. I purchased the house and property in good faith and was totally unaware of the need for the Variances. When I purchased the property it was in need of total renovation and I have spent the past two (2) years and \$30,000 restoring the property. As a retiree I cannot afford any expense for moving or relocation. The adjoining property is thickly wooded and the only house is about 300 feet away. I would like to replace the rear deck with a dining room extension. I have been advised that a building permit cannot be issued until the Variances are granted.

Staff notes County assessment records indicated the subject property (1.5 acres) was created in 1983. The existing dwelling was constructed in 1984. The applicant purchased the property on November 27, 2002. The applicant has indicated he would like to replace the rear deck with a dining room extension but before a building permit can be issued the property must meet the Zoning Ordinance requirements.

Staff visited the property and observed a dirt/gravel driveway being used as the ingress and egress to the subject property. The existing driveway is in good condition and may only need additional gravel to comply with conditions.

Variance I

The Board of Zoning Appeals hears requests for no public road frontage, when the subject property was recorded prior to 1980, is being subdivided and sold or given to a member of the property owner's immediate family, or complies with the plat validation process. In this case, the property must comply with the plat validation process.

The Chesterfield County Fire Department has requested that applicants with this type of request provide a fifteen (15) foot wide, all-weather road from the State maintained road to the dwelling capable of supporting fire equipment and/or ambulances. Also, the road shall have at least a fourteen (14) foot clearance to overhanging objects. Conditions 2(b), 2(c) and 2 (e) will cover their concerns, if approved.

Staff believes that this request will not reduce or impair the value of the dwelling or property in the area. Also, the strict application of the Zoning Ordinance would result in an unreasonable hardship to the property owner if the dwelling were required to be moved or a portion of it removed. Therefore, because the dwelling has been on the property for twenty-two (22) years and no negative impact can be identified, staff supports this request, subject to the following conditions:

Variance I

CONDITIONS

1. Within thirty (30) days, the applicants shall provide a copy of a recorded instrument which will include the following:

A fifty (50) foot wide private access easement from Point A to Point B as shown on the plat attached to the staff report.

2. The private access easement shall meet the following requirements:
 - (a) The instrument shall require that no structure or fence shall be constructed to block the easement and shall require the land owner of the subject parcel to be responsible for maintenance of the access in accordance with the standards set forth below;
 - (b) A fifteen (15) foot wide roadway shall be constructed and maintained to all weather standards from Point A to Point B. Prior to issuing a Certificate of Occupancy, the Planning Department shall inspect this roadway to determine its compliance with the following standards:
 - (c) The roadway shall consist of not less than the following: compacted soil sub-base with six (6) inches of compacted 21-B crushed stone. If an asphalt based surface is to be applied, it shall be designed and constructed to Chesterfield County subdivision street requirements or an equivalent design approved by the Subdivision Team, capable of supporting the projected 75,000 pound vehicle weight. The roadway shall not be approved if it is rutted or potholed and shall be maintained to this standard.
 - (d) There shall be an additional three (3) foot clear area beyond the edge of the roadway.
 - (e) There shall be a minimum vertical clearance of fourteen (14) feet of area above the roadway.
 - (f) The roadway shall have a maximum grade of ten (10) percent with an appropriate transition at the street connection.
 - (g) The minimum inside turning radius for any curve shall be twenty-seven (27) feet.
 - (h) Any cross drains shall be designed to accommodate a minimum ten (10) year storm.
3. The house number shall be installed on the mailbox or a pole and located at the driveway entrance of the State maintained road as well as at the driveway entrance to the property. The house numbers shall be displayed in at least four (4) inch high numbers.
4. The subject property shall not further be subdivided, including any family subdivisions, unless public road frontage is provided.

Variance II

As previously mentioned in this staff report, the subject property is owned by the applicant, Francis R. Turner and was obtained by him on November 27, 2002. Also, the property was created in 1983, by James Bullard. The applicant has indicated the existing dwelling is 3.75 feet from the east side yard property line.

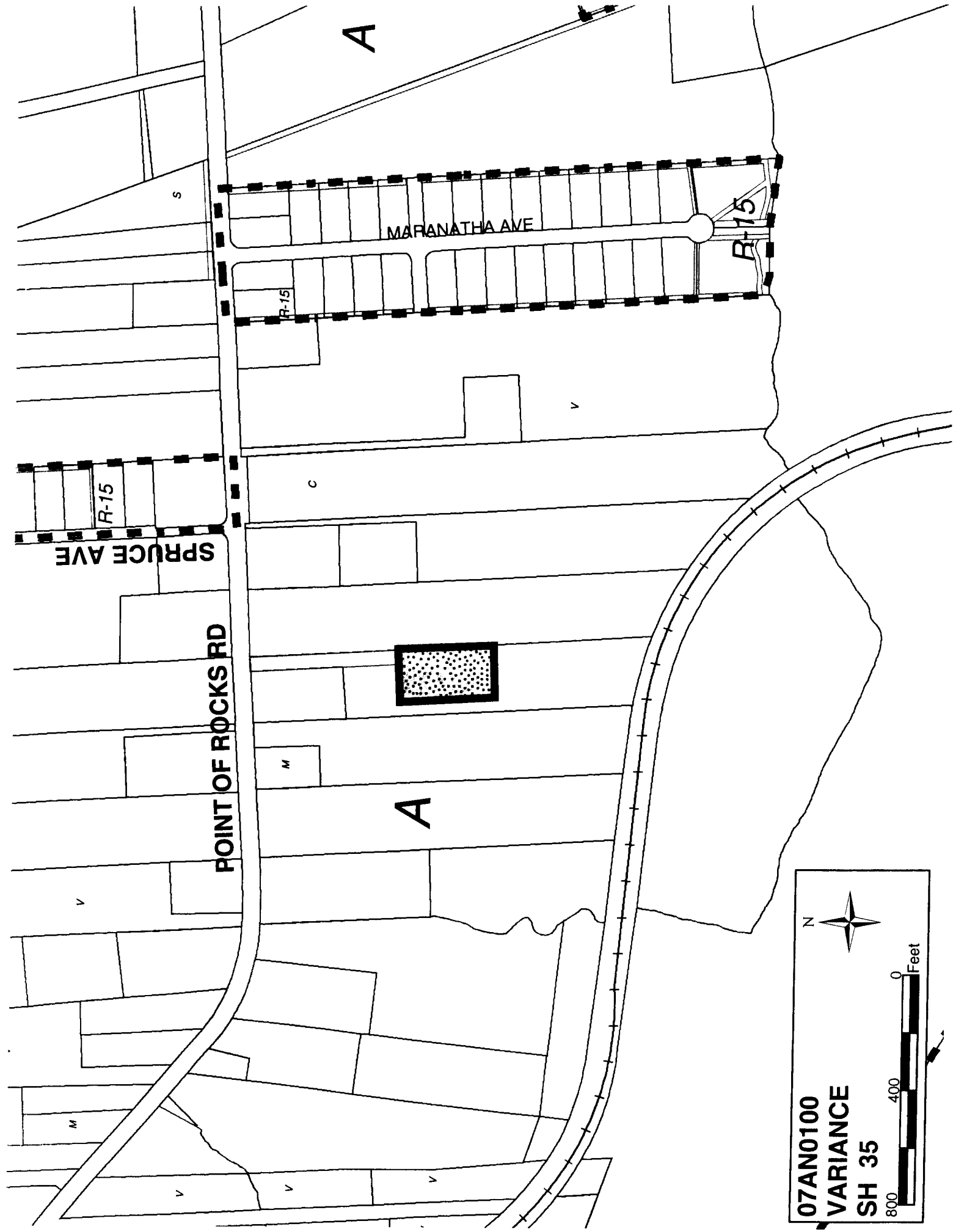
Staff has reviewed this request and cannot identify any alternative short of removing the dwelling or part of the dwelling in the side yard. Staff feels that removing or altering the dwelling to meet the required setbacks would impose an unnecessary hardship on the property owner. The property owner purchased this property in good faith.

Further, staff believes that this request will not reduce or impair the value of the dwelling or property in the area. Therefore, because the dwelling has been on the property for twenty-two (22) years and no negative impact can be identified, staff supports this request subject to the following condition.

Variance II

CONDITION

This Variance shall be for the existing dwelling located in the side yard as depicted on the plat attached to staff's report.



07AN0100
VARIANCE
SH 35

800 400 0 Feet

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